

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No.
)	04-00301-01-CR-W-HFS
MATTHEW A. BROOKS,)	
)	
Defendant.)	

ORDER

Before the court is defendant Matthew Brooks's motion for temporary transfer to state custody. Defendant is currently awaiting sentencing before Judge Ortrie D. Smith on July 14, 2005. He states that he has charges pending in Clay County, Missouri, which he would like to try to resolve prior to his federal sentencing. Resolution of the state charges would enable defendant to receive a possible concurrent sentence benefit under the sentencing guidelines.

Defendant appears in this court on a writ of habeas corpus ad prosequendum, issued on September 24, 2004. The Eighth Circuit has held that the Interstate Agreement on Detainers Act (IADA) is inapplicable to cases in which the defendant is present in federal court by means of a writ. *United States v. Moore*, 822 F.2d 35, 37 (8th Cir. 1987). Defendant has nonetheless executed a written waiver of any rights he may have under the IADA, and acknowledges that this court has continuing jurisdiction over defendant until his federal sentencing.

It is therefore

ORDERED that defendant's motion to be returned to the custody of Clay County, Missouri is granted. It is further

ORDERED that counsel for the government file an application for a second writ of habeas

corpus ad prosequendum sufficiently in advance of the July 14 sentencing hearing to ensure defendant's presence at that hearing.

/s/Robert E. Larsen
ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
April 25, 2005